



Department of the Treasury
Internal Revenue Service
1100 Commerce Street
Dallas, TX 75242

Number: **201406016**
Release Date: 2/7/2014

December 8, 2010

Form:

Tax Year(s) Ended:
December 31
Person to Contact:

Contact Telephone Number:

CERTIFIED MAIL

UIL: 501.07-00

Dear _____ :

We have completed our examination of your Form 990 for the periods ended December 31, _____. It has been determined that your exempt status should be revoked.

The previous report of examination issued on June 18, _____ states the basis for the revocation. You have concurred with our determination by signing Form 6018, Consent to Proposed Adverse Action, on July 14, _____. A copy of which is enclosed. Accordingly, your exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code has been revoked effective January 1, _____.

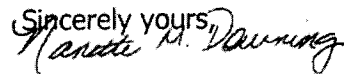
You are required to file Federal income tax return, Form 1120, with the Internal Revenue Service Center. We have secured the delinquent Forms 1120 for the periods ended December 31, _____, December 31, _____, and December 31, _____. When filing future returns, remember the Internal Revenue Code section 277 may limit your deductions.

You also have the right to contact the Office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778, and ask for the Taxpayer Advocate assistance or you can contact the Advocate from the site where this issue was determined by writing to:

Taxpayer Advocate assistance cannot be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. If we do not hear from you within 30 days of the date of this letter, this determination will be considered final and no further action will be required.

Please keep a copy of this report with your permanent records.

If you have any questions regarding this matter, please contact the person whose name and telephone number are shown above.

Sincerely yours,


Nanette M. Downing
Director, EO Examination

Enclosure(s):
Publication 892



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
1616 Capitol St Ste 450 Stop 4710OMA
Omaha, NE 68102-4923

June 14, 2009

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

December 31,

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

Letter 3610 (04-2002)
Catalog Number 34801V

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

| | | |
|-----------------------------|---|-------------------------|
| Form 886A | Department of the Treasury - Internal Revenue Service | Schedule No. or Exhibit |
| Explanation of Items | | |
| Name of Taxpayer | | |
| EIN: | | |

ISSUE: ISSUE: Whether _____ qualifies for exemption under Section 501(c)(7) of the Internal Revenue Code?

FACTS: The _____ (the "_____") was created with Articles of Incorporation (the "Articles") on August 17, _____. The Articles provide that the _____ was created for the common purpose for pleasure and recreation to operate a golf course establishing an organization which is described in IRC § 501(c)(7). The _____ obtained their exempt status in November of _____. The membership is any person of legal age that resides in the rural area and incorporated communities with a population of 2,500 or less. Each member will purchase a stock certificate for \$ _____. The _____ has five classes of membership as shown below:

Family membership- Membership is available to parents and all unmarried children and students. The membership entitles all such members to participate in all associated activities.

Single- Membership is available to unmarried and non-students. The benefits are the same as the Family membership.

Social- Membership is available to one or more non-golfing family members. The membership entitles such member and family to participate in all association activities except golf and golf cart stall rental.

College student- Membership is available to bona fide college students who do not qualify under a family membership. The membership entitles such member to the same benefits as a Single membership.

High School- Membership is available to bona fide high school students (not past graduation) who do not qualify under a Family membership. The membership entitles such member to unlimited golf participation only.

rules and fees:

Residents within the original _____ boundaries must become stockholders in order to participate in association activities. Anyone living outside of this area may become stockholders by purchasing a fully paid stock certificate, or may participate in association activities by paying appropriate membership fee or green fee. Non stockholders living inside the _____ may play only twice in each calendar year by paying green fees.

The minutes have discussed the _____ has been struggling to keep the cash flow above their expenses. They have increased their dues in the past years. Since surrounding areas have golf courses, they are in competition for the rural members in the area.

The chart below shows the total income reported on the Forms 990 and the amount of non-member income received for years ending December 31, _____ and _____. The non-member income is on the right side under UBI Income.

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| GROSS RECEIPTS | | % NON-MEMBER INCOME TEST | |
|----------------|-------|--------------------------|------|
| TXPD | 12/31 | PERCENTAGE | % |
| FORM 990 | | | TEST |
| GROSS RECEIPTS | | UBI INCOME | \$ |
| LINE # 1d | | GROSS RECEIPTS | % |
| 2 | | Green Fees | |
| 3 | | Tournament | |
| 4 | | Interest | |
| 6a | | Cart Rentals | |
| 10a | | Bar Sales & Rentals | |
| TOTAL | \$ | | |

| TXPD | | 12/31/ | | PERCENTAGE | | TEST | |
|----------------|----|-----------------|----|------------|--|------|--|
| FORM 990 | | | | | | | |
| GROSS RECEIPTS | | UBI INCOME | \$ | | | | |
| LINE # 1e | \$ | GROSS RECEIPTS | | | | | |
| 2 | | Green Fees | | | | | |
| 3 | | Tournament | | | | | |
| 5 | | 0 Interest | | | | | |
| 6a | | | | | | | |
| | | Sales & Rentals | | | | | |
| 10a | | | | | | | |

| TXPD | | 12/31, | | PERCENTAGE | | TEST | |
|----------------|----|---------------------|----|------------|--|------|--|
| FORM 990 | | | | | | | |
| GROSS RECEIPTS | | UBI INCOME | \$ | | | | |
| LINE #1d | \$ | GROSS RECEIPTS | | | | | |
| 2 | | Green Fees | | | | | |
| 3 | | Tournament | | | | | |
| 6a | | Cart Rentals | | | | | |
| 10a | | Bar Sales & Rentals | | | | | |
| 11 | | | | | | | |
| TOTAL | \$ | | | | | | |

The gross receipts were taken from all the 990 Forms from to
 Removed the refunds for of \$ of \$ and of \$ = Not Income
 Took the unrelated business income (UBI) from the POA's work papers.

| | | |
|-------------------------|--|-------------------------|
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The Forms 990 from to were used to compute the 12/31/ and the 12/31/ unrelated business income (UBI) gross receipts test. The POA's work papers were used to compute the UBI. The percentages for the UBI gross receipts test for to are as follows: %, % and % as shown above.

LAW:

IRC § 501(c)(7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

REGS, §1.501(c)(7)-1. Social clubs (a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

(b) A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption. [Reg. §1.501(c)(7)-1.]

IRC § 277. DEDUCTIONS INCURRED BY CERTAIN MEMBERSHIP ORGANIZATIONS IN TRANSACTIONS WITH MEMBERS.

IRC § 277(a) GENERAL RULE. —In the case of a social club or other membership organization which is operated primarily to furnish services or goods to members and which is not exempt from taxation, deductions for the taxable year attributable to furnishing services, insurance, goods, or other items of value to members shall be allowed only to the extent of income derived during such year from members or transactions with members (including income derived during such year from institutes and trade shows which are primarily for the education of members). If for any taxable year such deductions exceed such income, the excess shall be treated as a deduction attributable to furnishing services, insurance, goods, or other items of value to members paid or incurred in the succeeding taxable year. The deductions provided by sections 243, 244, and 245 (relating to dividends received by corporations) shall not be allowed to any organization to which this section applies for the taxable year.

Revenue Procedure 71-17, 1971-1 C.B. 683, describes the record-keeping requirements for social clubs exempt under IRC 501(c)(7) with respect to nonmember use of their facilities; it sets forth guidelines for determining the effect of gross receipts derived from

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public use of the club's facilities on exemption and liability for unrelated business income tax.

Gross Receipts Test / Public Law 94-568

Section 501(c)(7) was amended in 1976 by Public Law 94-568 to provide that section 501(c)(7) organizations could receive some outside income without losing their exempt status. Senate Report No. 94-1318 (1976), 2d Session, 1976-2 C.B. 597, explains that a social club is permitted to receive up to 35 percent of its gross receipts, including investment income, from sources outside of its membership without losing its tax-exempt status. It is also intended that within this 35 percent amount not more than 15 percent of the gross receipts should be derived from the use of a social club's facilities or services by the general public (nonmembers). In effect, the latter modification increases from 5 percent (Rev. Proc. 71-17, 1971-1 C.B. 683) to 15 percent the proportion of gross receipts a club may receive from making its club facilities available to the general public without losing its tax exempt status.

The Senate Report also states that it is not intended that these organizations should be permitted to receive, within the 15 percent or 35 percent allowances, income from the active conduct of businesses not traditionally carried on by these organizations. In cases where an organization's nontraditional income would cause the organization to exceed the 15 or 35 percent allowances, consideration should be given as to whether the organization continues to be substantially operated for IRC § 501(c)(7) purposes.

According to the Committee Reports, where a club receives income from other sources (non-traditional or unusual), including income from the sale of its clubhouse or similar facility, that income is not to be included in the formula; that is, such income is not to be included in either the numerator or the denominator for purposes of computing the 35 or 15 percent allowances.

The Committee Reports provide that **gross receipts** include, charges, admissions, membership fees, dues, assessments, investment income (such as dividends, rents, and similar receipts), and *normal recurring capital gains on investments*, **but excluding initiation fees and capital contributions**.

Where college fraternities or sororities charge membership initiation fees but not normal dues, such fees will be included in their gross receipts, notwithstanding that initiation fees are ordinarily excluded (Senate Report 94-1318, 2d Session, 1976-2 C.B. 599.).

GOVERNMENT'S POSITION:

Based on the facts of the examination, the organization does not qualify for exemption since the operations were more than substantial for non-members. The has operated from 1-1- to 12-31- above the provisions for non-member income described in IRC § 501(c)(7). Because the UBI gross receipts are over the % for non-member income for three years, revocation was recommend effective January 1,

The Public Law 94-568 and Senate Report No. 1318 amended IRC 501(c)(7) as of October 20, provide that to be exempt under Section 501(c)(7) a club is limited to receiving % of its income for use of club facilities from non-members. This organization

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substantially exceeded the limitation from non-member income for three consecutive years.

TAXPAYER'S POSITION:

Discussed the issue with the POA and the Taxpayer and they agreed the non-member income exceeded the gross receipts limitations. POA has been compliant and sent in converted Forms 1120 for the December 31, and tax periods.

CONCLUSION:

The status of (the " ") as an organization described under section 501(c)(7) should be revoked, effective January 1, because it did not operate within the provisions for exempt purposes. The exceeded the amount of allowable non-member income for three consecutive years therefore, no longer qualifies to be exempt.

Per Section 277 of the Internal Revenue Code (Code), a non-exempt organization that is a membership organization is allowed a deduction for expenses that relate to the operation of the organization for its members. Section 277(a) states that "In the case of a social club or other membership organization which is operated primarily to furnish services or goods to members, and which is not exempt from taxation, deductions for the taxable year attributable to furnishing services, insurance, goods, or other items of value to members shall be allowed only to the extent of income derived during such year from members or transactions with members (including income derived during such year from institutes and trade shows which are primarily for the education of members)".

When completing the Form 1120, the organization must divide the income and expenses between the member and non-member activities. If there is a loss from the membership activity it cannot be used to offset the income from the non-member activities. A loss on the member activity can be carried forward to a later year to be taken against member income.

Form 1120, U.S. Corporation Income Tax returns for years ending December 31, and later is due no later than the 15th day of the 3rd month following the close of the Organization's tax year.